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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Birch Stewart Kolasch & Birch LLP
PO BOX 747
Falls Church, VA 22040-0747

EXAMINER

SUKHAPHADHANA, CHRISTOPHER T

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/510,190

Applicant(s)

ITO, WATARU

Examiner

Christopher T. Sukhaphadhana

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Method, Apparatus, and Recording Medium for Facial Area Adjustment of an Image.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "S1" and "S2" have been used to designate both Image Data and Processed Image Data in Fig 1 and the steps of Input Image Data and Extract Face Area in Fig 5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:

Ref no A1 and S1 are both used to represent a face area extracted by Face Area Extracting Means 3. The specification provides no explanation for the need for separate labels when in a similar situation (Image Data S0 feeding into multiple means) only one label is used

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The expression ‘and/or’ lends itself to the interpretation of reading both ‘and’ and ‘or’ into the claim. Thus, nine (9) cases appear in the reading of each claim: adjusting density based on density information, adjusting density and color based on density, adjusting color based on density, adjusting density based on density and color, adjusting density and color based on density and color, adjusting color based on density and color, adjusting color based on density, adjusting color based on density and color, and adjusting color based on color.

Of the nine cases, only two show some support in the disclosure: adjusting density based on density (equations 1 and 2) and adjusting color based on color (p 8, lines 18-22). The other seven cases are not described in such a way as to enable one of ordinary skill in the art to make and/or use the invention as claimed.

Furthermore, in the aforementioned case of adjusting color based on color, the applicant fails to provide adequate description of the method of utilizing the color information to adjust the color of the face area. I.e., while the applicant discloses one specific example for the invention (p 8, line 18), the applicant fails to provide an adequate method of utilizing a relationship between

color information and the corresponding adjustments of color in the facial area (i.e. how does the invention do it?).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Takei (U.S. Patent 5,353,058).

While Takei does not expressly use the wordage of “extracting a face area” for discerning the facial area, Takei does disclose identifying a ‘divided area’ containing flesh-colored components (col 8, lines 28-37), which when taken in the context of Fig 11A and B is the equivalent of “extracting a face area”.

Furthermore, Takei discloses adjusting density (read as luminescence) of the face area based on density (luminescence) of an area surrounding the face area (col 9, lines 6-39). More specifically, Takei compares values derived from the luminescence values along the periphery of the image (areas not containing, but surrounding, the facial area) to threshold values to determine a “backlighting” or “front-lighting” state for the image (col 7, lines 3-20). Based on the determined state, appropriate correction is undertaken to correct the image of the subject or facial area (col 7, lines 57-61).

In regards to claim 3, Takei further discloses a computer-readable medium storing a program as ref no 59, Fig 5.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lawton et al (U.S. Patent 5,990,901) discloses a image correction apparatus that adjusts the overall intensity of a face to match surrounding areas.

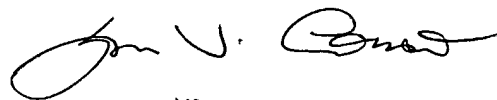
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher T. Sukhaphadhana whose telephone number is 703-306-4148. The examiner can normally be reached on 9a-4p M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

CTS

CTS
November 21, 2002



YON J. COUSO
PRIMARY EXAMINER